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19 UNITED STATES DISTRICT COURT
20 NORTHERN DISTRICT OF CALIFORNIA
21 SAN FRANCISCO DIVISION

22 TRI QUACH, an individual,
23 Plaintiff,
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25 v.

26 CVS PHARMACY, INC., and DOES 1-20,
inclusive,

27 Defendant.
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Case No. C13-02695-EMC

STIPULATED PROTECTIVE ORDER

1 WHEREAS, the parties herein agree that the proceedings in the above-entitled action may
 2 involve the production of financial, proprietary and/or other information that either party or a third
 3 party considers to be sensitive, confidential and/or proprietary; and

4 WHEREAS, the parties herein have read and understand Local Rule 79-5 and agree to abide
 5 by its terms;

6 THEREFORE, IT IS HEREBY STIPULATED by and among the undersigned parties,
 7 through their counsel of record that the following restrictions and procedures shall apply to certain
 8 information, documents and excerpts from documents supplied by the parties to each other in
 9 response to discovery requests:

10 1. This Stipulated Confidentiality Agreement and Protective Order ("Order")
 11 issued thereon shall govern all documents and discovery materials produced within the context of
 12 this litigation.

13 2. As used herein, the term "counsel of record" shall mean the attorneys of
 14 record in this proceeding, their partners and associates, paralegals, clerks, assistants and other
 15 persons employed by such attorneys, all of whom shall be bound by the provisions of this Order.

16 3. Counsel for any party may designate any document, information contained in
 17 a document, information revealed in an interrogatory response or information revealed during a
 18 deposition as confidential if counsel determines, in good faith, that such designation is necessary to
 19 protect the interests of the client or reasonably believes such information constitutes confidential or
 20 proprietary information and/or trade secrets relating to the client's business and/or information in
 21 which the party or third parties have a privacy interest. Information and documents designated by a
 22 party as confidential will be stamped "CONFIDENTIAL." "CONFIDENTIAL" information or
 23 documents may be referred to collectively as "CONFIDENTIAL INFORMATION."

24 4. As used herein, the term CONFIDENTIAL INFORMATION shall refer to:

25 (a) Any documents (including any portions thereof and any information contained
 26 therein) designated to be confidential by any party and which has had stamped or affixed thereon the
 27 word "CONFIDENTIAL." Stamping the legend "CONFIDENTIAL" on the cover of any multi-
 28 page document shall designate all pages of the document as confidential, unless otherwise indicated

1 by the designating party.

2 (b) All deposition testimony, including oral testimony, deposition transcripts and
3 the information contained therein, shall initially be treated as CONFIDENTIAL INFORMATION
4 and be included within the terms of this Order without the necessity of designating the testimony as
5 CONFIDENTIAL INFORMATION. Upon transcription of the deposition, counsel shall have 20
6 days after receipt of the transcript to notify the deposition reporter and other counsel of record in
7 writing of the portions of the transcript designated as confidential. Depositing the written notice in
8 the United States mail within such twenty 20 days shall be deemed timely compliance with this
9 requirement. All other portions, or the entire transcript if no designation is made, shall not be
10 confidential and shall not be within the terms of this Order. Alternatively, the parties may agree
11 during any deposition that a part or all of the testimony shall be designated as CONFIDENTIAL
12 INFORMATION. The parties may agree that the transcript of the designated testimony shall be
13 bound in a separate volume and marked "CONFIDENTIAL" by the reporter. Alternatively, the
14 parties may agree that part of the testimony is CONFIDENTIAL without having that designated part
15 transcribed in a separate volume.

16 (c) CONFIDENTIAL INFORMATION does not include any information or
17 documents lawfully obtained or produced by a party outside of the context of discovery in this
18 litigation. However, nothing in this Order shall affect the rights of any party to enforce any rights it
19 may have regarding the confidentiality of documents and other information disclosed or transferred
20 to another party or person prior to the institution of the present litigation.

21 5. In the event a party challenges another party's confidential designation, the
22 party who objects to the designation of material as CONFIDENTIAL INFORMATION shall notify
23 the designating party in writing of that objection, specifying the designated material to which the
24 objection is made. Within 10 days of service of the written objection, counsel shall meet and confer
25 in good faith to attempt to resolve the dispute. In the absence of a resolution, the challenging party
26 may thereafter seek resolution by the Court in a timely manner. If no such motion is filed within 45
27 days after the parties "meet and confer" as provided above, the material will be deemed conclusively
28 subject to the protection of this Order for purposes of discovery. The designating party shall have

1 the burden of establishing the confidential nature of the designated material and that it is entitled to
 2 protection under applicable law. All documents designated confidential information pursuant to this
 3 Order shall remain confidential unless and until any such motion by the objecting party is granted
 4 and the Court declares that the designated material is not subject to the protection of this Order.

5 6. Unless ordered by the Court, or otherwise provided for herein, the
 6 CONFIDENTIAL INFORMATION disclosed pursuant to this Order will be held and used by the
 7 person receiving such information solely for use in connection with the above-captioned action.
 8 Persons receiving such confidential information shall not reveal to or discuss such information with
 9 any person who is not entitled to receive such information.

10 7. Information or documents designated as "CONFIDENTIAL" shall not be
 11 disclosed to any person, except:

12 (a) The requesting party and counsel, including the respective personnel of the
 13 law firms involved in this action and in-house counsel;

14 (b) Any agent, officer, director, or employee of a party to the extent deemed
 15 reasonably necessary by counsel to aid in the prosecution, defense, or settlement of this action;

16 (c) Consultants or experts (together with their staff) retained by counsel of record
 17 on behalf of the parties;

18 (d) Any person from whom testimony is taken or is to be taken in this action,
 19 except that such a person may only be shown that CONFIDENTIAL INFORMATION during and in
 20 preparation for his/her testimony and may not retain the CONFIDENTIAL INFORMATION.

21 (e) Any other person(s) as to whom the parties agree in writing pursuant to
 22 paragraph 10;

23 (f) Court reporter(s) and their staff employed in this action;

24 (g) The Court (including any clerk, stenographer, or other person having access to
 25 any CONFIDENTIAL INFORMATION by virtue of his or her position with the Court) or the jury at
 26 trial or as exhibits to motions;

27 8. Prior to disclosing or displaying the Confidential Information to any person,
 28 counsel shall:

1 (a) Inform the person of the confidential nature of the information or documents;
2 and

3 (b) Inform the person that this Court has enjoined the use of the information or
4 documents by him/her for any purpose other than this litigation and has enjoined the disclosure of
5 that information or documents to any other person.

6 9. The Confidential Information may be displayed to and discussed with the
7 persons identified in Paragraphs 7 (c)-(e) only on the condition that prior to any such display or
8 discussion, each such person shall be asked to sign an agreement to be bound by this Order in the
9 form attached hereto as Exhibit A. For witnesses, consultants, or experts who are under the control
10 of either party, that party must assure that the person signs the Confidentiality Agreement that is
11 attached hereto as Exhibit A. If an individual is not under the control of either party, both parties
12 shall attempt to have them execute the Confidentiality Agreement that is attached hereto as Exhibit
13 A. In the event such person refuses to sign this Confidentiality Agreement, the party desiring to
14 disclose the CONFIDENTIAL INFORMATION may seek appropriate relief from the Court. In no
15 event shall the provisions of this Order prevent a party from deposing a witness and utilizing all
16 relevant documents simply because the witness has refused to sign the Confidentiality Agreement.

17 10. If counsel for any party should conclude that, for the purpose of this action,
18 such party needs to disclose any CONFIDENTIAL INFORMATION, or information derived
19 therefrom, to any person not described in paragraph 7 of this Order, counsel for such party must
20 request permission from counsel for the designating party in writing and state the purpose of the
21 disclosure. If the designating party objects to the proposed disclosure, no such disclosure shall be
22 made unless the Court, upon motion and for good cause shown, orders otherwise. However, each
23 party may disclose its own CONFIDENTIAL INFORMATION without regard to this Order unless
24 otherwise under an existing duty to another person not to do so.

25 11. The disclosure of a document or information without designating it as
26 “confidential” shall not constitute a waiver of the right to designate such document or information as
27 CONFIDENTIAL INFORMATION provided that the material is designated pursuant to the
28 procedures set forth herein no later than that latter of fourteen (14) days after the close of discovery

1 or fourteen (14) days after the document or information's production. If so designated, the document
2 or information shall thenceforth be treated as Confidential Information subject to all the terms of this
3 Stipulation and Order.

4 12. Nothing in this Order constitutes an admission by any party that
5 CONFIDENTIAL INFORMATION disclosed in this case is relevant or admissible, nor does it
6 constitute an admission by any party that any information that it or any opponent designates as
7 CONFIDENTIAL INFORMATION is in fact proprietary information and/or a trade secret, and/or
8 information in which a party or third parties have a privacy right. Notwithstanding the foregoing, all
9 parties to this Stipulation reserve all trade secret, proprietary information, and/or privacy objections
10 with respect to materials they believe may be encompassed in a discovery request.

11 13. Notwithstanding the provisions of paragraph 12, above, where a party believes
12 that a third party or parties have a privacy interest in CONFIDENTIAL INFORMATION, that party
13 may, in place of or in addition to producing such CONFIDENTIAL INFORMATION pursuant to
14 the terms of this Stipulation and Order, meet and confer with other counsel to attempt to limit the
15 information produced or the use of the information so as to balance the privacy interests of the third
16 parties with the interest of the party seeking the material. In the event the parties are unable to agree
17 on terms for the production and use of the CONFIDENTIAL INFORMATION, the matter may be
18 submitted to the Court, either by way of motion for protective order or to compel responses to
19 discovery, so that the Court can make an appropriate order balancing the privacy rights of the third
20 parties with the needs of the parties for the information in prosecuting or defending the lawsuit.

21 14. All information subject to confidential treatment in accordance with the terms
22 of this Stipulation and Order that is filed with the Court, and any pleadings, motions or other papers
23 filed with the Court disclosing any Confidential Information, shall be filed under seal in accordance
24 with Local Rule 79-5 of the Civil Local Rules, Northern District of California (or the applicable
25 Rules in effect at the time), and any applicable Standing Orders. To the extent the Court requires
26 any further act by the parties as a precondition to the filing of documents under seal, it shall be the
27 obligation of the producing party of the documents to be filed with the Court to satisfy any such
28 precondition. Where possible, only confidential portions of filings with the Court shall be filed under

1 seal.

2 15. At the conclusion of litigation, the Confidential Information and any copies
3 thereof shall be promptly (and in no event later than thirty (30) days after entry of final judgment no
4 longer subject to further appeal) returned to the producing party or certified as destroyed, except that
5 the parties' counsel shall be permitted to retain their working files on the condition that those files
6 will remain confidential.

7 16. The foregoing is entirely without prejudice to the right of any party to apply to
8 the Court for any further Protective Order relating to confidential information; or to object to the
9 production of documents or information; or to apply to the Court for an order compelling production
10 of documents or information; or for modification of this Order. This Order may be enforced by
11 either party and any violation may result in the imposition of sanctions by the Court. This Court
12 shall have continuing jurisdiction to modify, amend, or rescind this Order notwithstanding the
13 termination of this action.

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15
16 Dated: October 11, 2013

/S/ Alexa L. Woerner
Michael E. Brewer
Alexa L. Woerner
LITTLER MENDELSON, P.C.
Attorneys for Defendant
CVS PHARMACY, INC.

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20 Dated: October 11, 2013

/S/ Steven Kesten
Steven Kesten
Jeremiah Stephens-Smidly
KESTEN-LAW
Attorneys for Plaintiff
TRI QUACH

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24 Dated: October 11, 2013

/S/ Peter F. Lacques
Peter F. Lacques
LAW OFFICE OF PETER F. LACQUES
Attorneys for Plaintiff
TRI QUACH

1 I, the filer of this document, attest that all other signatories listed, and on whose
2 behalf the filing is submitted, concur in the filing's content and have authorized the filing.
3
4

5 Dated: October 11, 2013

6 By /S/ Alexa L. Woerner
7 Michael E. Brewer
8 Alexa L. Woerner
9 LITTLER MENDELSON, P.C.
10 Attorneys for Defendant
11 CVS PHARMACY, INC.

12 **PURSUANT TO STIPULATION, IT IS SO ORDERED.**

13 Dated: October 22, 2013
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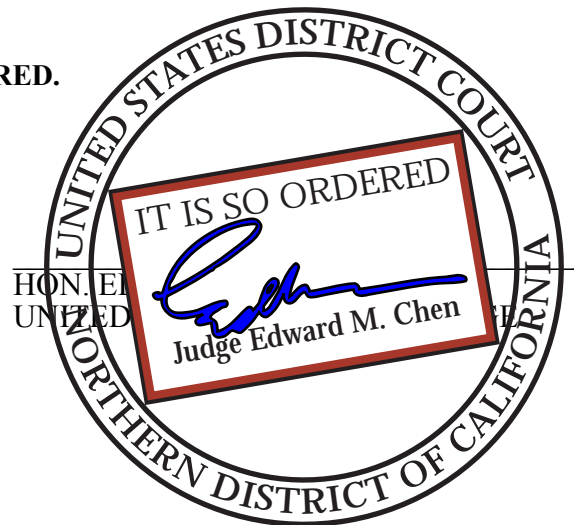


EXHIBIT A

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2 1. I have received a copy of the Stipulated Protective Order (the “Protective Order”)
3 entered by the United States District Court for the Northern District of California (the “Court”) in the
4 above-referenced action. I have carefully read and understand all of the provisions of the Protective
5 Order.

6 2. I agree to be bound by all of the provisions of the Protective Order. I will hold in
7 confidence, will not disclose to anyone other than those persons specifically authorized by the
8 Protective Order, and will not copy or used except for purposes of this action, any information
9 designated as “Confidential” which I receive in this action.

10 3. I understand a violation of the Protective Order is punishable by contempt of Court,
11 and/or a claim for damages, and I hereby consent to the jurisdiction of the Court for the purpose of
12 enforcing the terms and restrictions of the Protective Order.

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14 Executed on: _____ By: _____
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